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SUBJECT: EMBASSY DUSHANBE,S RULE OF LAW PROGRAM

Classified By: Amb. Tracey A. Jacobson for reasons 1.4 (b) and 1.4(d).

¶1. (SBU) Summary: Embassy Dushanbe,s rule of law priorities have become more sophisticated as we learn the depth to which reforms are necessary. An inter-agency advisory team recently visited Tajikistan to assess the criminal justice sector, and the team will soon provide recommendations on program activities. We believe, however, that program recommendations constitute one part of a broader rule of law strategy. We have started to substantially participate in legislative reform, and we anticipate political interventions over a sustained period of time to test the willingness of Tajik officials to investigate organized crime and corruption. End Summary.

¶2. (U) From November 12-19, an inter-agency advisory team visited Dushanbe to assess justice sector programs in Tajikistan. The team, composed of officials from the Departments of State and Justice, met with representatives of the Tajik government, non-governmental organizations, and the international community. The advisory team will make specific recommendations, which Embassy Dushanbe welcomes. We view the advisory team,s visit as the beginning of a new phase of exploring rule of law issues, in which we become more integrally involved in reform efforts.

The Foundation - Criminal Procedure Code Reform

¶3. (SBU) During a recent meeting with the advisory team and Embassy Dushanbe,s Rule of Law Advisor, Sharif Aliev, President Rahmon,s Advisor on Judicial Reform, said the Tajik Government will look to the American Bar Association to coordinate assistance in criminal justice reform, specifically redrafting the Criminal Procedure Code. President Rahmon has tasked Aliev with forming a working group, and Aliev indicated that the government considers redrafting the Code to be a priority. While the American Bar Association and Embassy Dushanbe,s Rule of Law Advisor have been consulting with Tajik justice officials on this subject for several months, this is the first time Aliev has described arrangements in such a clear manner.

¶4. (SBU) The U.S. Department of Justice,s association with the American Bar Association creates the pretext for Embassy Dushanbe,s Rule of Law Advisor to have an official role in the redrafting process. During the meeting, Aliev agreed to the Rule of Law Advisor having an "active role" in the working group. In the past, two additional members of the working group, the Chairman of the Supreme Court and the Head of the Council of Justice, have also expressed enthusiasm about the Rule of Law Advisor,s collaboration.

¶5. (U) The American Bar Association covers Tajikistan from its office in Bishkek. An American lawyer flies in to meet

with officials, and the Association maintains support staff in Dushanbe. The Association does not plan to permanently place an American lawyer in its office in Dushanbe.

#### Not Buying In To Window Dressing - Organized Crime and Corruption

¶6. (SBU) EmbOffs who work closely with Tajik law enforcement organizations have observed that the the Tajiks hace the ability to conduct serious organized crime and corruption investigations, but lack the will to undertake serious action. For the most part, Tajik law enforcement officials mask the absence of expanded investigations with statistics that do not actually reflect progress. For example, Ministry of Interior officials point to a high number of drug seizures as an indication that they have been successful in combating narcotics trafficking. Virtually all of these seizures, Qnarcotics trafficking. Virtually all of these seizures, however, involve merely couriers, and there have been no prosecutions of anyone suspected of having any influence within organized drug rings.

¶7. (SBU) Numerous sources have pointed to the pervasive corruption that characterizes official Tajik institutions. EmbOffs view the Agency to Fight Corruption as yet another organization established to fend off scrutiny from the international community and the public at large. Tajik government claims that it is taking concerted action to fight corruption are not backed up by facts.

¶8. (SBU) Embassy Dushanbe defines "concerted action" to mean devoting significant resources and political capital to empowering law enforcement and criminal justice institutions to undertake extensive, complicated investigations and prosecutions of mid- and high-ranking government officials and organized crime figures. Such an endeavor could include a special court to try suspects, with a corresponding team of prosecutors and investigators. Special legislation would be adopted, and judges, prosecutors, and investigators would be vetted. Ideally, Tajik authorities would invite technical assistance from the international community.

¶9. (SBU) At this point, we have no indication that Tajik authorities are prepared to even begin discussing a comprehensive or serious approach to fighting organized crime and corruption. We have observed, however, that Tajikistan,s unwillingness to engage in such an effort severely limits the degree to which we can meet crucial mission goals.

#### Programs and Exchanges

¶10. (U) We eagerly await the findings and recommendations of the justice sector assessment team. We recognize the importance of funding exchange programs, civil society projects, and law enforcement and judicial development programs. We do, however, recognize that we must complement these programs with the rule of law interventions mentioned above. Moreover, we recognize that rule of law issues extend beyond the justice sector - civil and administrative processes also suffer from a high degree of corruption and lack of due process.

#### Comment

¶11. (SBU) Comment: The Rule of Law Advisor,s participation in redrafting the Criminal Procedure Code is an opportunity that we have to seize. We will initiate discussions with Tajik officials to test their willingness to take serious steps at enabling judges, prosecutors and law enforcement officials along the lines mentioned above. End comment.  
JACOBSON